

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2006-258-C - ORDER NO. 2006-538
SEPTEMBER 12, 2006

IN RE: Petition of NuVox Communications, Inc. for) ORDER GRANTING
Expedited Review of Growth Code Denial by) RELIEF
the Number Pooling Administrator Relating to)
the State of South Carolina Military)
Department)

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petition for Expedited Review of Central Office Code Denial filed by NuVox Communications, Inc. (NuVox or the Company). NuVox petitions the Commission for expedited review and reversal of the Thousands-Block Pooling Administrator's (National Pooling Administrator or PA) denial of NuVox's request for additional telephone numbers in the Columbia Rate Center. This request is being made to meet the needs of a particular customer, The State of South Carolina Military Department (SCMD).

This Petition requests 10,000 additional telephone numbers, [10 consecutive thousands blocks], in the Columbia rate center to serve its customer pursuant to the Commission's "safety valve" authority. The Federal Communications Commission (FCC) delegated to state commissions the authority to review requests previously denied by the PA and to grant carriers additional numbering resources when appropriate. A carrier may request that the state commission invoke its "safety valve" authority when the

FCC's standard Months to Exhaust (MTE) and utilization threshold criteria operate mechanically to deny otherwise legitimate requests for additional numbering resources.

According to the Petition, the Commission has full authority to grant this request and has granted similar requests in the past. For example, on August 4, 2006, in Docket No. 2006-200-C, the Commission granted a similar request made by BellSouth to fulfill a special request in the Spartanburg rate center.

On March 31, 2000, the FCC set uniform standards governing requests for telephone numbering resources in order to increase efficiency in the use of existing telephone numbers and to further avoid exhaustion of the North America Numbering Plan. In that decision (*Number Resource Optimization, Report and Order and Further Notice of Proposed Rulemaking*, FCC 00-104, 15 FCC Rcd. 7574 (2000) ("FCC Order 00-104")) and a subsequent order, FCC Order 00-429, the FCC directed the industry and the PA to comply with the INC Thousands-Block (NXX-X) Pooling Administration Guidelines ("the Pooling Guidelines") in implementing pooling. Under the Pooling Guidelines, in order to obtain growth thousands-blocks from the PA, a carrier must demonstrate that its existing resources in the rate center will exhaust within six months and that the carrier has assigned 75% of the existing resources to customers.

The Pooling Guidelines allow a state commission to review and reverse a denial by the PA for numbering resources. *See* INC Thousands-Block Pooling Administration Guidelines Section 3.7 and 11.1; *see also* 47 CFR Section 52.15 (g)(5). The Commission may therefore address the present Petition. In an Order issued in 2001, the FCC further clarified the authority delegated to state commissions to address denials by the PA or the

North American Numbering Plan Administration (NANPA) of requests for numbering resources. In FCC Order 01-362, the FCC said “[W]e agree with the commenting parties that a safety valve mechanism should be established, and we delegate authority to state commissions to hear claims that a safety valve should be applied when the NANPA or Pooling Administrator denies a specific request for numbering resources.” The FCC delegated authority to state commissions to consider safety valve requests precisely because there are situations like this one where a carrier has a legitimate need for numbers to meet customer demand outside of the standard criteria. The FCC’s rules provide that a state commission also may overturn the PA’s decision to withhold numbering resources from the carrier based on its determination that the carrier has demonstrated a verifiable need for numbering resources and has exhausted all other available remedies. Further, the FCC has stated that a carrier should be able to get additional numbering resources when there is a verifiable need due to the carrier’s inability to satisfy a specific customer request, and may grant request for customers seeking contiguous blocks of numbers.

In the present case, the State of South Carolina Military Department, a NuVox customer, requested 10,000 consecutive numbers, or one full NXX code. The customer cites expansion and growth and the need for a dedicated prefix as its bases for this request. NuVox did not and does not have sufficient number resources available within its inventory in the Columbia rate center. Accordingly, on or about August 11, 2006, NuVox submitted a Central Office Code (NXX) Assignment Request, and the CO Code Assignment Months to Exhaust Certificate Worksheet to NeuStar seeking assignment of

a new NXX code (10,000 numbers) to meet the demands of its customer. At the time of the code request, the Columbia rate center had an MTE of approximately 2.644 months. On August 11, 2006, the PA denied NuVox's request for additional numbering resources in Columbia because the PA is not allowed to look beyond the standard months-to-exhaust and number utilization criteria that are used in determining whether a carrier may obtain additional growth blocks.

The Commission has jurisdiction to grant appeals from the PA's decisions regarding number resources. The denial of sufficient numbering resources to NuVox to meet its customer's request is clearly inconsistent with the FCC's position that "under no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for want of number resources." FCC 00-429 at ll. 61. By refusing to grant numbering resources sufficient to meet its customer's needs, the PA, according to NuVox, is preventing The State of South Carolina Military Department from obtaining the service of its choice from its carrier of choice, NuVox.

Also according to NuVox, all necessary elements are present to allow the Commission to overrule the PA's automatic denial. First, NuVox states that it has demonstrated that it has received a customer request for numbering resources that it cannot meet with its current inventory. Second, NuVox states that it has demonstrated need by documenting in writing that it has a customer request and has demonstrated proof of utilization. Third, NuVox notes that it has made the appropriate application to the PA. Fourth, NuVox states that the PA automatically denied NuVox's request for numbers in

the Columbia rate center because NuVox's utilization of its numbers in this rate center did not hit the requisite percentage.

NuVox requests that this Commission review and reverse the National Pooling Administrator's decision to withhold numbering resources from NuVox on the grounds that the PA's decision prevents NuVox from meeting a specific need to serve its customer in the Columbia rate center, thereby interfering with NuVox's ability to serve its customers within South Carolina.

Accordingly, we grant expedited review and we so hold. The National Pooling Administrator's decision to withhold numbering resources from NuVox is reversed. That decision prevents NuVox from meeting a specific need to serve its customers in the Columbia rate center, thereby interfering with NuVox's ability to serve its customers within South Carolina. NuVox's Petition is granted as filed. We also grant the Motion for Protective Treatment as filed.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



G. O'Neal Hamilton, Chairman

ATTEST:



C. Robert Moseley, Vice Chairman
(SEAL)